SINGLE BENCH

3

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

WRIT PETITION NO.527 OF 2005

PETITIONER :

W.P. No. 563/05
Presented by Shri Sameer Behar
dated 24/10/05

S. N. Bajpai, S/o Late Shri R. R. Bajpai, Aged about 58 years, presently working as Jr. Engineer (Civil), Attached to Control Room under East Dn. Raipur (CG), R/o Behind Ratan Hotel, Sumangalam Apartment, Face – 2, Flat No. – DF103, Link Road, Bilaspur (CG)

Versus

RESPONDENTS :

1. Chhattisgarh State Electricity Board, through its Secretary, Danganiya, Raipur (CG)

2. Joint Secretary (P)- 1, Chhattisgarh State Electricity Board, Raipur (CG)

3. Executive Director, Chhattisgarh State Electricity Board, Raipur (CG)

4. The Chief Executive Engineer, Chhattisgarh State Electricity Board, Raipur (CG)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

1. **PARTICULARS OF THE PETITIONER.**

As shown in the cause title.

2. **PARTICULARS OF THE RESPONDENT.**

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(24)

मामला क्रमांक .....5273/05..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	27/10/2005 Shri Sameer Behar, learned counsel for the petitioner. Shri Pankaj Shrivastava, Panel Lawyer for the State. Heard on admission. The petitioner, who is working on the post of Junior Engineer in Control Room, City East Division, Raipur has been transferred from Raipur to the office of the Executive Engineer (Civil Division), Bhilai by the impugned order dated 02/09/2005. The petitioner has challenged the validity of this transfer order. Learned counsel for the petitioner submits that the petitioner is to retire in the month of January 2006. The home District of the petitioner is District Bilaspur, therefore, in the said transfer of the petitioner, according to circular Annexure P-2, he would have been transferred to his home District vide clause 8 of the aforesaid circular. The law in relation to interference by the Courts in the matter of transfer is now well settled. The Apex Court while dealing with the matter of ***Kendrikya Vidyalaya Sangathan -Vs- Damodar Prasad Pandey, 2004 AIR SCW 5563*** observed that the transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by *mala-fide* or infraction of any prescribed norms of principles governing the transfer. (please see *Ambani Kanta Ray -Vs- State of Orissa - 1995*	

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

(Suppl.) 4 SCC 169). Unless the order of transfer is vitiated by *mala fide* or is made in violation of operative guidelines, the Court cannot interfere with it. (See Union of India -Vs- S.L. Abbas AIR 1993 SC 2444). Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In **Union of India & others -Vs- Janardan Debanath & another (2004) 4 SCC 245**, it was observed as follows:

> *"No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala-fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employee/management, as against such order passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in* **National Hydroelectric Power Corpn. Ltd. -Vs- Shri Bhagwan (2001) 8 SCC 574.**

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... WP 5273/25 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Since the learned counsel for the petitioner could not point out any ground of *malafide* or infringement of any statutory rule, I am not inclined to interfere in such order of transfer. The petition has no merit and the same is dismissed. However, the petitioner would be at liberty to file representation before the concerned authority. C.C. as per rules. Sd/- Sunil Kumar Sinha Judge	